

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**IN RE APPLICATION OF JULIO  
MIGUEL ORLANDINI-AGREDA AND  
COMPAÑÍA MINERA ORLANDINI  
LTDA. FOR AN ORDER TO TAKE  
DISCOVERY PURSUANT TO 28 U.S.C.  
§ 1782**

Case No. 1:17-mc-00029-LO-IDD

**DECLARATION OF STEPHEN D. RABER IN SUPPORT OF  
MOTION TO QUASH SUBPOENA**

Pursuant to 28 U.S.C. § 1746, I, Stephen D. Raber, hereby declare under penalty of perjury that the following is true and correct:

1. I am a partner in the law firm of Williams & Connolly LLP, which represents Mr. Gonzalo Sánchez de Lozada in connection with the Petition for Discovery in Aid of a Foreign Proceeding Pursuant to 28 U.S.C. § 1782 (the “Petition”) and the subsequent subpoena served on December 18, 2017. *See* Pet. ¶ 1, ECF No. 1; Ex. A, Sánchez de Lozada Subpoena.

True and correct copies of all exhibits cited below are attached to this declaration.

2. Third-party subpoena recipient Gonzalo Daniel Sánchez de Lozada Sánchez de Bustamante, was born on July 1, 1930, and is eighty-seven years old.

3. Upon information and belief, Mr. Sánchez de Lozada will not be a party to the potential foreign arbitration between Petitioners and the Plurinational State of Bolivia (“Bolivia”).

4. Related to their potential foreign arbitration against Bolivia, Petitioners have filed two separate, additional petitions for discovery pursuant to 28 U.S.C. § 1782 in the United States

District Court for the Southern District of New York. On September 25, 2017, Petitioners filed an application for an order directing discovery from Gibson, Dunn & Crutcher LLP (“Gibson Dunn”), the law firm that represented the sellers of Compañía Minera del Sur S.A. (“COMSUR”). Ex. B, Petition for Discovery in Aid of a Foreign Proceeding Pursuant to 28 U.S.C. § 1782 ¶ 1; Ex. C, Orta Decl. ¶ 5. On September 28, 2017, U.S. District Judge Loretta A. Preska granted Petitioners’ application. Ex. D, Order at 1, ECF No. 7 (S.D.N.Y. Case No. 1:17-mc-00354-LAP). The proposed subpoena was nearly identical to the subpoena served on Mr. Sánchez de Lozada. *Compare* Ex. E, Gibson Dunn Proposed Subpoena, Schedule A at 1-6, *with* Ex. A, Sánchez de Lozada Subpoena, Schedule A at 1-6 (including one additional request, No. 14, seeking documents concerning any interest Mr. Sánchez de Lozada retains in COMSUR, or any other entity that may be receiving remuneration from Glencore and COMIBOL’s mining activities in Bolivia).

5. On September 25, 2017, Petitioners also filed an application for an order directing discovery from Peter Stein, a former director at Minera S.A. Ex. F, Petition for Discovery in Aid of a Foreign Proceeding Pursuant to 28 U.S.C. § 1782 ¶ 1; Ex. G, Orta Decl. ¶ 5. On October 10, 2017, U.S. District Judge Paul A. Engelmayer granted Petitioners’ application. Ex. H, Order at 1, ECF No. 12 (S.D.N.Y. Case No. 1:17-mc-00355-PAE). The proposed subpoena was nearly identical to the subpoena served on Mr. Sánchez de Lozada. *Compare* Ex. I, Peter Stein Proposed Subpoena, Schedule A at 1-6, *with* Ex. A, Sánchez de Lozada Subpoena, Schedule A at 1-6 (including one additional request, No. 14, seeking documents concerning any interest Mr. Sánchez de Lozada retains in COMSUR, or any other entity that may be receiving remuneration from Glencore and COMIBOL’s mining activities in Bolivia). Mr. Stein’s deposition was scheduled for December 13, 2017. Ex. J, Letter from Debra D. O’Gorman, Dechert LLP, to the

Hon. Paul A. Engelmayer, U.S. District Court for the Southern District of New York 1 (Dec. 11, 2017).

6. Mr. Sánchez de Lozada was the founder of COMSUR based in Bolivia. In early 2005, COMSUR was sold to Glencore International AG (together with its subsidiaries, “Glencore”). At the time of the sale, he held no officer or director position at COMSUR, and held a minority ownership interest in COMSUR.

7. Mr. Sánchez de Lozada also held an ownership interest in Iris Mines & Metals S.A., until 2006, when it was also sold to Glencore. At the time of the sale, he held no officer or director position in Iris Mines & Metals S.A.

8. Mr. Sánchez de Lozada currently holds an ownership interest in Minera S.A. He currently does not hold any officer or director position at Minera S.A. He is not the current chairman of Minera S.A.

9. Mr. Sánchez de Lozada has conducted a reasonable and diligent search for hard copies of documents that are reasonably accessible, which included roughly 65 to 75 boxes of documents. After conducting a reasonable search, he has not located any responsive documents.

10. After a preliminary review of the reasonably accessible electronically stored information (“ESI”) held by Mr. Sánchez de Lozada, a search in response to the subpoena would require Mr. Sánchez de Lozada to review 117,000 electronic files, almost all of which are e-mails. Assuming a review rate of 45 documents per hour at a cost of \$200 per hour, we estimate the cost of the proposed review would be \$520,000 (2,600 hrs x \$200/hr = \$520,000). This estimate does not include the cost of reviewing electronic documents for privilege and preparing a privilege log. These estimates potentially could be reduced through the use of search terms and

date restrictions, however, the negotiation of such terms would also result in Mr. Sánchez de Lozada incurring additional attorneys' fees.

11. Mr. Sánchez de Lozada has no legal right or practical access to documents or information currently held by COMSUR.

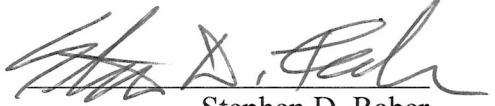
12. Mr. Sánchez de Lozada has no legal right or practical access to documents or information currently held by Iris Mines & Metals S.A.

13. Mr. Sánchez de Lozada has no legal right or practical access to documents or information currently held by Corporación Minera de Bolivia ("COMIBOL").

14. Neither Mr. Sánchez de Lozada nor Minera S.A. has access to documents outside of the United States that relate to the transaction at issue in the potential arbitration.

15. On December 6, 2017, Bolivia filed a Section 1782 Petition in the United States District Court for the Eastern District of Virginia also seeking discovery from Mr. Sánchez de Lozada. Ex. K, The Plurinational State of Bolivia's Petition for Discovery in Aid of a Foreign Proceeding Pursuant to 28 U.S.C. § 1782 ¶ 1, ECF No. 1 (E.D. Va. Case No. 1:17-mc-00030-AJT-MSN). Bolivia seeks discovery for a pending foreign arbitration against Glencore Finance (Bermuda) Limited ("Glencore"). *Id.* ¶¶ 2-3. Glencore brought this arbitration claim against Bolivia "based on allegations that Bolivia destroyed its Bolivian investments" in certain assets. *Id.* ¶ 3. Petitioners have filed a motion for leave to intervene and to participate in discovery in that matter. Ex. L, Motion for Leave to Intervene in Petition for Discovery in Aid of a Foreign Proceeding Pursuant to 28 U.S.C. § 1782, ECF. No. 11 (E.D. Va. Case No. 1:17-mc-00030-AJT-MSN).

I declare under penalty of perjury that the foregoing is true and correct to the best of my current knowledge, information, and belief. Executed on January 10, 2018, in Washington, D.C.



Stephen D. Raber